

ORIGINAL  
FILE

ORIGINAL  
RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

SUN 24 1992  
Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
The Telephone Consumer )  
Protection Act of 1991 )

CC Docket No. 92-90

To: The Commission

REPLY OF JONES INTERCABLE, INC.

Jones Intercable, Inc. ("Jones"), by its attorneys, hereby replies to comments filed in the Notice of Proposed Rulemaking in CC Docket No. 92-90 ("Notice"), adopted April 10, 1992 concerning the Telephone Consumer Protection Act of 1991 (the "Act"). Jones supports the adoption of regulations which will help realize the objectives of the Act. Jones also supports the comments of various parties to the proceeding who request the Commission to clarify the permissible use of autodialers under the Act.

Jones owns and operates cable television systems in various areas of the country. Jones relies on telemarketing as an effective and efficient means to contact potential subscribers to its cable services. Because the methods of telephone solicitation used by Jones and other commentators advance the interests of both businesses and consumers without unduly intruding upon the residential privacy of consumers, Jones requests the Commission to clarify that the use of an autodialer, coupled with a pre-

No. of Copies rec'd  
List A B C D E

049

recorded message informing consumers an operator will be available momentarily, is permissible under the Act.

Several commentators have requested the Commission to expressly determine that the Act does not prohibit the use of autodialing equipment. As American Express notes, the language of the Act suggests that Congress recognizes automatic dialing devices pose virtually no threat to residential privacy. Initial Comments of American Express at 5. Centel agrees that the statute itself does not prohibit the use of autodialing and advises the Commission to clarify whether it intends the term "automatic telephone dialing systems" as used in its rules to refer to autodialing or only to automated or prerecorded messages. Comments of Centel Corporation at 4. See also Comment, American Telemarketing Association, Inc. (Commission should distinguish between calls using autodialers in connection with live operators and completely automated calls).

Additionally, a number of commentators request the Commission to adopt an expansive interpretation of its exception for commercial calls which do not transmit an unsolicited advertisement. BellSouth Corporation points out that commercial calls that do not transmit unsolicited advertising will continue to play an increasing role in the distribution of information in society and thus deserve protection under the Commission's rules. Comments,

BellSouth Corporation at 6. As American Express points out, certain types of informational commercial calls do not invade consumer privacy and are actually welcomed by the consumer. American Express at 5. Although such calls may ultimately result in a completed transaction, their primary purpose is to provide information to the consumer, and they should therefore be protected. Id.

Moreover, Jones believes that pre-recorded messages which do not convey a commercial message but merely advise the customer that a live operator will be on the line increases the efficiency of operations without an invasion of privacy. Cox Enterprises in its comments specifically urges the Commission to affirmatively exempt the use of a prerecorded or automated message that temporarily puts a party on hold until a live operator can take the call because the automated portion of the call merely serves to provide information and does not transmit advertising. Comments of Cox Enterprises, Inc. at 5. Jones supports this exemption. The use of an autodialer in combination with a pre-recorded message to advise a customer that a live operator will be on the line enables businesses to efficiently market their services to the public without the intrusions which the Act was designed to protect. Prohibition of the use of an autodialer used in this manner with a "please hold" automated message would be too broad a

restriction and would handicap business by preventing an efficient use of technology.

In conclusion, Jones urges the Commission to adopt rules clearly stating that the use of autodialers alone is not prohibited under the Act. It also requests the Commission to interpret the exception for automated commercial calls broadly to cover calls using an automated prompt which requests that a party hold until a live operator can take the call.

Respectfully submitted,

JONES INTERCABLE, INC.

By: 

Peter H. Feinberg  
Christine C. Bumpus

Its Attorneys

Dow, Lohnes & Albertson  
1255 23rd Street  
Suite 500  
Washington, D.C. 20037  
(202) 857-2500

June 24, 1992

**CERTIFICATE OF SERVICE**

I, Tara M. Ghannam, hereby certify that on this 23rd day of June 1992, copies of the foregoing "Reply of Jones Intercable, Inc." have been served by first-class United States mail, postage prepaid, upon the following:

Ms. Judy Lanier  
National President  
444 North Larchmont Boulevard  
Suite 200  
Los Angeles, California 90004

James S. Blaszak, Esq.  
Kevin S. DiLallo, Esq.  
Gardner, Carton & Douglas  
1301 K Street, N.W.  
Suite 900  
Washington, D.C. 20005

William B. Barfield, Esq.  
A. Kirven Gilbert, III, Esq.  
1155 Peachtree Street, N.E.  
Suite 1800  
Atlanta, Georgia 30367-6000

Mr. Charles F. Wright  
Vice President - Corporate  
Development  
8725 Higgins Road  
Chicago, Illinois 60631

Theodore D. Frank, Esq.  
Vonya B. McCann, Esq.  
Arent Fox Kintner Plotkin & Kahn  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5339

James A. Hatcher, Esq.  
Secretary and General Counsel  
Cox Enterprises Inc.  
1400 Lake Hearn Drive, N.E.  
Atlanta, Georgia 30319



---

Tara M. Ghannam